



05-1501

AF/3611  
E

Practitioner's Docket No. TRW(TE)4170

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Roger A. McCurdy

Application No.: 09/494,954 Group No.: 3611

Filed: February 1, 2000 Examiner: Lee S. Lum

For: **METHOD AND APPARATUS FOR CONTROLLING AN ACTUATABLE OCCUPANT PROTECTION DEVICE USING AN ULTRASONIC SENSOR**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES  
(37 C.F.R. § 1.191)**

*NOTE: An appeal may be based on one rejection in a prior application and one rejection in a continuing application. 62 Fed. Reg. 53,131, at 53,167; 1203 O.G. 63, at 93 (Oct. 10, 1997).*

*NOTE: There is no requirement for a notice of appeal to: (1) be signed; or (2) identify the appealed claims. 62 Fed. Reg. 53,131, at 53,167; 1203 O.G. 63, at 94 (Oct. 10, 1997).*

Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed December 11, 2003, rejecting claims 1-22.

The item(s) checked below are appropriate:

1. STATUS OF APPLICANT

This application is on behalf of

other than a small entity.  
 a small entity.

**RECEIVED**

MAY 17 2004

**GROUP 3600**

**CERTIFICATION UNDER 37 CFR §§ 1.8(a) and 1.10\***

**(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)**

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**37 C.F.R. § 1.8(a)**

**37 C.F.R. § 1.10\***

with sufficient postage as first class mail.  as "Express Mail Post Office to Addressee" Mailing Label No. ET-035757365US (mandatory)

**TRANSMISSION**

transmitted by facsimile to the Patent and Trademark Office, (703) \_\_\_\_\_

  
Signature

Date: May 11, 2004

Anita J. Galo

(type or print name of person certifying)

*\*Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

05/13/2004 SSITHIB1 00000073 09494954

(Notice of Appeal from the Primary Examiner to Board [9-6]--Page 1 of 3

01 FC:1252 420.00 OP

05/13/2004 SSITHIB1 00000073 09494954

02 FC:1401 330.00 OP



A statement

is attached.  
 was already filed on \_\_\_\_\_

**RECEIVED**

MAY 17 2004

**GROUP 3600**

**2. FEE FOR FILING NOTICE OF APPEAL**

Pursuant to 37 C.F.R. 1.17(b), the fee for filing the Notice of Appeal is:

small entity \$165.00  
 other than a small entity \$330.00

Notice of Appeal fee due **\$330.00**

**3. EXTENSION OF TERM**

**NOTE:** 37 C.F.R. § 1.740(b) "...an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has not effect on the three-month period set forth in this paragraph."

**NOTE:** The time periods set forth in 37 C.F.R. 1.191 are subject to the provision of § 1.136 for patent applications. 37 C.F.R. 1.191(d). (But see 37 C.F.R. 1.645 for extension of time in interference proceedings and 37 C.F.R. 1.550(c) for extension of time in reexamination proceedings).

(complete (a) or (b), as applicable)

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

(a)  Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months check below:

<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input checked="" type="checkbox"/> two months	\$ 420.00	\$210.00
<input type="checkbox"/> three months	\$ 950.00	\$475.00
<input type="checkbox"/> four months	\$1,480.00	\$740.00

**Fee 420.00**

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next time, if applicable)

An extension for \_\_\_\_\_ months has already been secured. The fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request **\$420.00**

**or**



(b)  Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

4. **TOTAL FEE DUE**

The total fee due is:

Notice of Appeal fee \$330.00

Extension fee (if any) \$420.00

**TOTAL FEE DUE \$750.00**

5. **FEE PAYMENT**

Attached is a  check  money order in the amount of \$750.00

Authorization is hereby made to charge the amount of \$0.00

to Deposit Account No. 20-0090.

to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** *Credit card information should not be included on this form as it may become public.*

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

6. **FEE DEFICIENCY**

**NOTE:** *If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986 (1065 O.G. 31-33).*

If any additional extension and/or fee required,

**AND/OR**

If any additional fee for claims is required, charge:

Deposit Account No. 20-0090.

Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** *Credit card information should not be included on this form as it may become public.*

Barry L. Tummino  
SIGNATURE OF PRACTITIONER

Barry L. Tummino

*(type or print name of practitioner)*

Reg. No.: 29,709

Tarolli, Sundheim, Covell,  
& Tummino L.L.P.  
526 Superior Avenue, Suite 1111  
Cleveland, OH 44114-1400  
P.O. Address

Tel. No.:(216) 621-2234

Customer No.: 26,294